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09/925,585	08/09/2001	Lane Thomas Holloway	AUS9-2001-0253-US1	2884
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IBM CORP. (AVE) C/O LAW OFFICE OF ANTHONY ENGLAND PO BOX 5307 AUSTIN, TX 78763-5307				PATEL, MANGLESH M
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**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

Application Number: 09/925,585

Filing Date: August 09, 2001

Appellant(s): HOLLOWAY ET AL.

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Anthony V.S. England  
For Appellant

**EXAMINER'S ANSWER**

This is in response to the appeal brief filed 06/27/2006 appealing from the Office action mailed 01/27/2006.

**(1) Real Party in Interest**

A statement identifying by name the real party in interest is contained in the brief.

**(2) Related Appeals and Interferences**

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

**(3) Status of Claims**

The statement of the status of claims contained in the brief is correct.

**(4) Status of Amendments After Final**

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

**(5) Summary of Claimed Subject Matter**

The summary of claimed subject matter contained in the brief is correct.

**(6) Grounds of Rejection to be Reviewed on Appeal**

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

**(7) Claims Appendix**

The copy of the appealed claims contained in the Appendix to the brief is correct.

**(8) Evidence Relied Upon**

2002/0029154	Majoer	03-2002
2002/0184265	Gupta	12-2002
6,826,540	Plantec et al.	11-2004
5,893,098	Peters et al.	04-1999

**(9) Grounds of Rejection**

The following ground(s) of rejection are applicable to the appealed claims:

**Claim Objections**

Claims 4, 11 and 17 are objected to because of the following informalities: The claims in the appendix contain minor errors that also existed in the amendment. The Dependent claims 2-3 were canceled but claim 4 still depends on claim 2. Likewise 9-10 canceled but 11 depends on 9. And 16-17 canceled but 18 depends on 17. Appropriate corrections are required.

Claims 1-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Majoer (U.S. Pub 2002/0029154, filed Sept 7, 2001) in view of Gupta (U.S. Pub 2002/0184265, filed May 30, 2001) further in view of Peters (U.S. 5,893,098, filed Dec 20, 1996) further in view of Plantec (U.S. 6,826,540, filed Dec 29, 1999).

**Regarding Independent claims 1, 8 and 15,** Majoer teaches *storing a survey document on a computer-readable medium of a first computer system, the*

*survey document having questions and answers in a certain format for delivery over a network to a second computer system and for presenting ones of the survey document questions and answers for selecting by a user of the second computer* (paragraphs 16 & fig 1, Wherein the survey is stored in the rule server that represents the first computer. The document is in a certain format (may be implemented using any well known programming language, paragraph 15) and contains questions and answers (paragraph 29) for presentation to a user for receiving a selection (paragraph 16). The user representing the second computer or client has shown in figure 2). Majoor fails to teach the questions and answers defined in markup tags where attributes define the association between the questions and answers. Gupta teaches *wherein according to the certain format of the survey document, the questions and answers are defined as data elements included in the survey document as strings of text surrounded by text markups, including tags describing the data elements and attributes defining associations among the questions and answers* (paragraph 19 & 24, wherein extensible markup language with tag definitions within a DTD are used for a question/answer generator. The DTD creates questions as an element, and answers to that question as an attribute to the question element. Therefore attributes are defining the association between the questions and answers).

Gupta fails to teach the branching of the questions based on an answer. Peters teaches *including associations such that ones of the questions branch from ones of the answers* (column 5, lines 54-67 & column 6, lines 1-35, wherein A survey

document may include a string of questions linked to each other and the branched-to question may be asked if the remote user has given one or more predetermined answers to the string of questions and to the question to which the branched-to question is linked. Therefore the associations between the questions and answers include the branching of the question based on the answer). *And instructions for causing the second computer system to display on a user interface certain ones of the questions, including the first one of the questions, and branch to and display on the user interface the second and third ones of the questions, or else not branch to and display the second and third ones of the questions, responsive to an answer selected by the user and received by the second computer system for the first question and responsive to ones of the cross-references defining the associations among the first, second and third one of the questions* (column 5, lines 54-67 & column 6, lines 1-35 & column 15, lines 30-60, wherein a survey document may include a string of questions linked to each other and the branched-to question may be asked if the remote user has given one or more predetermined answers to the string of questions and to the question to which the branched-to question is linked. Therefore the associations between the questions and answers include the branching of the question based on the answer. In addition a screen presenting a branched-to question will not be presented by the display to the remote user unless he makes one or more predetermined answers to a previous question. Therefore based on the response it may or may not branch). Peters fails to teach

the parsing of the survey document into an array. Plantec teaches *storing programming instructions on a computer-readable medium of the first computer system, the programming instructions being for delivery over the network to the second computer system, including instructions for causing the second computer system to parse the data elements from the survey document into data arrays having cross-references defining the associations among questions and answers* (column 30, lines 19-42 & column 38, lines 33-48, wherein the survey results consisting of questions/answers are stored in an array. In addition the script file containing the questions and answers is parsed). At the time of the invention it would have been obvious to a person of ordinary skill in the art to include the parsing of a document into an array. The motivation for doing so would have been to provide a more efficient data collection method for the conversion of the information into a form useful to the survey sponsor. Therefore it would have been obvious to combine the teachings of Plantec with Peters, Gupta and Majoor for the benefits of allowing a more efficient and portable survey system capable of using previous answers for dynamically determining questions.

**Regarding Dependant claims 4, 11 and 18,** Majoor fails to teach the use of a document type definition file. Gupta teaches *storing a data type definition file on a computer-readable medium of a first computer system, the data type definition file being for delivery over the network to the second computer system, wherein the programming instructions include instructions for causing the second*

*computer system to validate the data elements responsive to the document type definition file* (paragraph 24, Wherein a DTD is used to define the format of the document. Questions and answers are separated by the DTD, by elements and attributes respectively). Gupta fails to teach the branching of the questions based on an answer. Peters teaches the branching of the questions based on answers selected by the user (column 5, lines 54-67 & column 6, lines 1-35). Peters fails to teach the parsing of the survey document into an array. Plantec teaches the survey results consisting of questions/answers are stored in an array. In addition the script file containing the questions and answers is parsed (column 30, lines 19-42 & column 38, lines 33-48). At the time of the invention it would have been obvious to a person of ordinary skill in the art to include the parsing of a document into an array. The motivation for doing so would have been to provide a more efficient data collection method for the conversion of the information into a form useful to the survey sponsor. Therefore it would have been obvious to combine the teachings of Plantec with Peters, Gupta and Majoor for the benefits of allowing a more efficient and portable survey system capable of using previous answers for dynamically determining questions.

**Regarding Dependant claims 5, 12 and 19,** Majoor fails to teach the use of a browser for displaying the received information. Plantec teaches *wherein the programming instructions are included in a document that includes information for displaying by a browser running on the second computer system and*

*directions for how the browser should display the information, and the programming instructions include instructions in an object oriented, interpreted, dynamic programming language* (column 15, lines 1-11, Wherein a internet browser module is used to transfer information. The module may be coded in many different high-level languages such as C, C++, Java or Pascal). At the time of the invention it would have been obvious to a person of ordinary skill in the art to include the use of a browser described in an object oriented language. The motivation for doing so would have been to increase the portability for display within a browser by limiting the need for redesign. Therefore it would have been obvious to combine the teachings of Plantec with Peters, Gupta and Majoor for the benefits of allowing a more efficient and portable survey system capable of using previous answers for dynamically determining questions.

**Regarding Dependant claims 6, 13 and 20,** Majoor fails to Explicitly teach the use of Java programming language for describing the data displayed within a browser. Plantec explicitly teaches *wherein the programming language includes Java* (column 15, lines 6-11, Wherein The module may be coded in many different high-level languages such as C, C++, Java or Pascal). At the time of the invention it would have been obvious to a person of ordinary skill in the art to include the use of a browser described in java programming language. The motivation for doing so would have been to increase the portability for display within a browser by limiting the need for redesign. Therefore it would have been

obvious to combine the teachings of Plantec with Peters, Gupta and Majoor for the benefits of allowing a more efficient and portable survey system capable of using previous answers for dynamically determining questions.

**Regarding Dependant claims 7, 14 and 21,** Majoor fails to teach the return of survey results in a markup language with tags and data elements. Gupta teaches *wherein the programming instructions include instructions for causing the second computer system to return survey results to the first computer system as a document defining the answers as data elements included in the survey document as strings of text surrounded by text markups, including tags, wherein the text markups describe the data elements* (paragraph 24, Wherein a markup language is used to describe the answer/questions with tags and data elements). Gupta fails to teach the branching of the questions based on an answer. Peters teaches the branching of the questions based on answers selected by the user (column 5, lines 54-67 & column 6, lines 1-35). Peters fails to teach the parsing of the survey document into an array. Plantec teaches the survey results consisting of questions/answers are stored in an array. In addition the script file containing the questions and answers is parsed (column 30, lines 19-42 & column 38, lines 33-48). At the time of the invention it would have been obvious to a person of ordinary skill in the art to include the parsing of a document into an array. The motivation for doing so would have been to provide a more efficient data collection method for the conversion of the information into a form useful to

the survey sponsor. Therefore it would have been obvious to combine the teachings of Plantec with Peters, Gupta and Majoer for the benefits of allowing a more efficient and portable survey system capable of using previous answers for dynamically determining questions.

#### **(10) Response to Argument**

##### **(1) Appellant Argues:**

Plantec does not teach or suggest, "including instructions for causing the second computer system to parse the data elements from the survey document into data arrays having cross-references defining the associations among questions and answers," as claimed. (pg 6, paragraph 1)

The Examiner respectfully disagrees. Looking at fig 1 the diagram shows two databases, a review client and a virtual human interface application that is part of the second computer and includes the survey participant. The database represents a first computer that contains all possible survey questions/answers. The figure shows a script file 114 that is being sent to the second computer that includes the survey participant.

Looking at column 9, lines 8-45 Plantec describes the virtual human interface application that includes Verbot. Based on the survey participants

permission script files are downloaded from the server. *"When the survey script server receives such a request, it sends a script file to the survey input client over the network (column 9, lines 27-30)"*. After the requested script file has been downloaded a conversation that includes the embedded questions within the script is initiated by the Verbot. Next all the responses to the survey questions generated by the survey participant are stored by the Verbot in an **answer file on the survey input client 106** shown in fig 1.

The examiner further points to column 16, lines 38-65 & figure 5. Plantec describes that the Verbot can be run locally on the survey client. Further stating "Those of ordinary skill in the art will understand that the Verbot includes particular modules, namely **script file parser 502**, and **image generator 504**, and a **response parser 506**." When the script file is parsed for presenting the survey to the survey participant it has to store the questions on the participants computer in a data structure. Pg 8, line 16 of the specification states "the arrays 126 are data structures". Plantec describes that data processing instructions are combined with the **question data** including the **anticipated response** or answers within a **single script file** (see column 19, lines 9-15). If the questions are presented to the user then that single script file has to be parsed and the questions and answers are associated and stored in a data structure. If the anticipated responses were not associated with the questions then the Verbot would not know how to respond to the survey participants input. The anticipated responses used by the Verbot represent the answers as described in the claims,

because the question and answers are sent to the second computer system and associated with each other before actually receiving a users response. The users response recorded with the questions (answer file) is different than the applicants claimed questions associated with answers from the database prior to receiving any user input.

Applicant also describes that the questions and answers include a branching that occurs responsive to users input (page 6, paragraph 2). Plantec doesn't explicitly describe anything about branching of the questions based on user input. However Peters explicitly teaches the branching of questions based on the users answers (column 5, lines 54-67 & column 6, lines 1-35). Peters states "A screen presenting a **branched-to question** will not be presented by the display to the remote user unless he makes one or more **predetermined answers** to a previous question or questions." (Column 6, lines 2-5).

(2) Appellant Argues:

No Proper motivation has been shown for combining the references.

- A. The proposed combination of Gupta with the other references changes the principle operation of Gupta. (page 7, paragraph 1)
- B. The proposed combination of Majoor with the other references changes the principle of operation of Majoor. (page 8, line 1)

C. Majoor teaches away from the present invention as claimed.

(page 8, paragraph 2, line 1)

D. No Objective reason or specific understanding or principle within the knowledge of the skilled artisan taught by the cited references has provided a motivation to combine their teachings. (page 9, line 1)

The Examiner respectfully disagrees. First, all art are analogous since they are used to conduct a survey or present answers and questions to users. Majoor describes analyzing a set of received answers from the user including a first determination. "A first determination is then made of whether any questions from the first set of questions need to be answered again based upon rules governing responsive answers" (abstract). Majoor describes a rule-based approach to survey questions that define actions or results based on input values (paragraph 3). Majoor further states "For example, related questions may be asked sequentially, one after another, on different screens, or an overwhelming number of unrelated questions may be presented on the same screen. As questions are presented without regard of their relevance to the user, many presented questions are inappropriate, which wastes time and computer resources." (see paragraph 4). The applicants invention addresses this problem as well see specification [page 1, lines 10-14] & [page 1, lines 23 to page 2, lines 1-2]. Therefore Majoor does not teach away from the invention as claimed, but

both address the same issue dealing with improving surveying by eliminating the need to ask certain questions by analyzing the answers thereby saving time. The examiner fails to understand how branching to questions based on answers is novel in a survey, because both Majoor & Peters address this issue.

Gupta describes a question and answer generator. The generator creates answers and questions on-the-fly thereby eliminating the need to have a surveyor to review the questions (paragraph 5 & 6). With Gupta's teachings one of ordinary skill in the art would have modified the teachings of Plantec to avoid using a survey review client as shown in fig 1 by dynamically generating answers on-the-fly saving time. Further Gupta's teaching addresses Peters issue dealing with the arduous process of reviewing multiple surveys. By implementing Gupta's on-the-fly answer generator it prevents the managing director (as described in Peters on column 2, lines 26-45) from having to process the results, thereby saving time and money.

Majoor deals with implementing an improved method for question handling (paragraph 5, lines 1-2). One of ordinary skill would have used Gupta to modify Majoor to include on-the-fly answer generation using the rule based system for analyzing questions thereby saving time and presentation of inappropriate questions.

Plantec teaches the use of a survey review client based on the answers received from the user (see figure 1). One of ordinary skill in the art would have applied the teachings of Peters for automatically receiving, identifying and

processing responses to the questions received from the survey participant in Plantec thereby saving significant time and money avoiding the need for a separate reviewer.

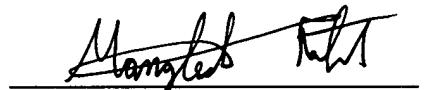
**(11) Related Proceeding(s) Appendix**

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

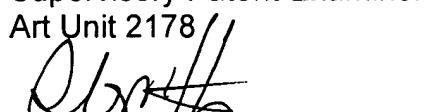
Manglesh M. Patel  
September 15, 2006



CESAR PAULA  
PRIMARY EXAMINER

Conferees:

Stephen S. Hong  
Supervisory Patent Examiner  
Art Unit 2178



Heather Herndon  
Supervisory Patent Examiner  
Art Unit 2176

